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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,660	12/03/2001	Hiroshi Miyajima	15126	9638

7590 07/15/2003

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530-0299

EXAMINER

ALLEN, DENISE S

ART UNIT PAPER NUMBER

2872

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/004,660

Applicant(s)

MIYAJIMA ET AL.

Examiner

Denise S Allen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 19 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Drawings***

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on May 19, 2003 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Response to Arguments

In the Applicant's response on May 19, 2003 (paper #8), the Applicant argues with respect to claims 1 – 3 and 22, that Minamoto fails to teach or reasonable suggest that the reflective-surface forming surface is reflective substantially throughout as recited in amended claims 1 and 22 (pages 9 - 11). This argument has been fully considered and not found to be persuasive.

The examiner respectfully disagrees with the Applicant's argument. Minamoto does teach that the reflective-surface forming surface (Figure 2B reference 106) is reflective (column 5 lines 42 – 45) substantially throughout (the entire surface of reference 106).

The Applicant further argues with respect to claim 1 – 3 and 22, that Minamoto fails to teach or reasonable suggest that the reflective-forming surface of the first portion of the movable plate is formed in such a shape as to be substantially inscribed in the electric-element forming surface of the second portion as recited in amended claims 1 and 22 (pages 9 - 11). This argument has been fully considered and not found to be persuasive.

The examiner respectfully disagrees with the Applicant's argument. Minamoto does teach that the reflective-forming surface (Figures 2A and 2B reference 106) of the first portion

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(reference 101) of the movable plate is formed in such a shape as to be substantially inscribed in the electric-element forming surface (reference 102) of the second portion (references 102 and 110). More specifically, referring to Figure 2A, the reflective-forming surface (the bottom surface of the movable plate) is substantially enclosed within the perimeter of the electric-element forming surface so that every vertex (all four corners of the rectangle) of the reflective-forming surface is incident on the perimeter of the electric-element forming surface (at the corners of the electric-element forming surface).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Minamoto.

Regarding claims 1 and 22, Minamoto teaches a mirror rocking member (Figures 2A and 2B) for an optical deflector, which comprises the mirror rocking member for deflecting light, and driving means (references 104 and 107) for driving the member, the mirror rocking member comprising: a movable plate (reference 101) having a reflective surface (reference 106); elastic members (reference 152) for rockably supporting the movable plate; and a support (reference 103) for supporting the elastic members, the movable plate having an electric element (reference 104), which constitutes a part of the driving means, the movable plate including a first portion (reference 101) having the reflective surface, and a second portion (references 102 and 110) including an electric element, the first portion having a reflective-surface forming surface

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(reference 106) with the reflective surface formed thereon, the reflective-surface forming surface being reflective (column 5 lines 42 – 45) substantially throughout (the entire surface of reference 106), the second portion having an electric-element forming surface (reference 102) with the electric element formed thereon and the reflective-surface forming surface of the first portion being formed in such a shape as to be substantially inscribed in the electric-element forming surface of the second portion (the reflective-forming surface, the bottom surface of the movable plate, is substantially enclosed within the perimeter of the electric-element forming surface so that every vertex, all four corners of the rectangle, of the reflective-forming surface is incident on the perimeter of the electric-element forming surface at the corners of the electric-element forming surface).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minamoto.

Minamoto discloses the claimed invention except for the reflective-surface forming surface of the first portion having an elliptical shape (claim 2) or a dodecagonal shape (claim 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to change the shape of the reflective-surface forming surface from rectangular to elliptical or dodecagonal, since it has been held that a mere change in shape of an element is generally

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recognized as being within the level of ordinary skill in art when the change in shape is not significant to the function of the combination. Further, one would have been motivated to select the elliptical or dodecagonal shape for the purpose of eliminating the corners of the rectangle and the possibility of debris collecting in the corners.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Denise S Allen whose telephone number is (703) 305-7407. The examiner can normally be reached on Monday - Friday, 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (703) 305-0024. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

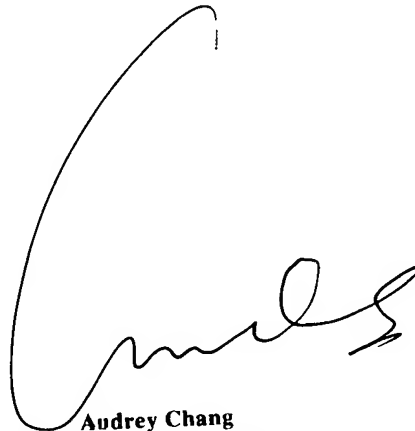
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

Denise S Allen
Examiner
Art Unit 2872



dsa

July 7, 2003



Audrey Chang
Primary Examiner
Technology Center 2800